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COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

VALLEY REGIONAL OFFICE

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Secretary of Natural Resources

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David K. Paylor
Director

Amy Thatcher Owens
Regional Director

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION - ORDER BY CONSENT ISSUED TO PATRIOT READY MIXED CONCRETE, L.L.C. FOR PATRIOT READY MIXED CONCRETE PORTABLE PLANT Registration No. 81748

SECTION A: Purpose

This is a Consent Order issued under the authority of Va. Code §§ 10.1-1309 and -1316, between the State Air Pollution Control Board and Patriot Ready Mixed Concrete, L.L.C., regarding the Patriot Ready Mixed Concrete Portable Plant, for the purpose of resolving certain violations of the Virginia Air Pollution Control Law, the Permit, and applicable regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the State Air Pollution Control Board, a permanent citizens' board of the Commonwealth of Virginia, as described in Va. Code §§ 10.1-1184 and -1301.
2. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia, as described in Va. Code § 10.1-1183.
3. "Director" means the Director of the Department of Environmental Quality, as described in Va. Code § 10.1-1185.

4. "Facility" means the Patriot Ready Mixed Concrete, L.L.C. portable facility, home based at 281 Woodbine Road in the community of Clearbrook in Frederick County, Virginia.
5. "Notice of Violation" or "NOV" means a type of Notice of Alleged Violation under Va. Code § 10.1-1309.
6. "Order" means this document, also known as a "Consent Order" or "Order by Consent," a type of Special Order under the Virginia Air Pollution Control Law.
7. "Patriot" means Patriot Ready Mixed Concrete, L.L.C., a corporation authorized to do business in Virginia and its affiliates, partners, and subsidiaries. Patriot Ready Mixed Concrete, L.L.C. is a "person" within the meaning of Va. Code § 10.1-1300.
8. "Permit" means the NSR permit to construct and operate a portable concrete batch plant, which was issued under the Virginia Air Pollution Control Law and the Regulations to Patriot on March 23, 2017.
9. "Regulations" or "Regulations for the Control and Abatement of Air Pollution" mean 9 VAC 5 chapters 10 through 80.
10. "Va. Code" means the Code of Virginia (1950), as amended.
11. "VAC" means the Virginia Administrative Code.
12. "Virginia Air Pollution Control Law" means Chapter 13 (§ 10.1-1300 *et seq.*) of Title 10.1 of the Va. Code.

SECTION C: Findings of Fact and Conclusions of Law

1. Patriot is the owner and operator of a Facility home based in Clearbrook, Virginia. The Facility operates pursuant to the Permit issued on March 23, 2017.
2. On February 28, 2018, DEQ received Patriot's Annual Update report for the Facility. The Annual Update report stated that the throughput of concrete produced at the Facility totaled 32,134 cubic yards.
3. Condition 6 of the Permit states that: "The production of concrete shall not exceed 30,000 cubic yards per year, calculated monthly as the sum of each consecutive 12-month period. Compliance for the consecutive 12-month period shall be demonstrated by adding the total for the most recently completed calendar month to the individual monthly totals for the preceding 11 months."
4. On March 6, 2018, the Department issued NOV No. AVRO000819-001 to Patriot for exceeding the permitted throughput limit of concrete production.

5. On March 28, 2018, Patriot provided to DEQ monthly throughput data for the Facility indicating that the production of concrete exceeded 30,000 cubic yards rolling average for the months of August 2017 and September 2017. The throughput data indicated that the Facility completed concrete production at the end of September and no concrete was produced at the Facility for the remainder of the calendar year.
6. On April 4, 2018, DEQ staff received an application for permit modification from Patriot to increase the annual throughput limit of concrete production at the Facility to 200,000 cubic yards. The permit modification was issued on April 27, 2018.
7. Based on the information submitted by Patriot on February 28, 2018 and March 28, 2018, the Board concludes that Patriot has violated Permit condition 6 as described in paragraphs C(2) through C(5) above.

SECTION D: Agreement and Order

Accordingly, by virtue of the authority granted it in Va. Code §§ 10.1-1309 and -1316, the Board orders Patriot, and Patriot agrees to:

Pay a civil charge of \$2,636.70 within 30 days of the effective date of the Order in settlement of the violations cited in this Order.

Payment shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia," and delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

Patriot shall include its Federal Employer Identification Number (FEIN) with the civil charge payment and shall indicate that the payment is being made in accordance with the requirements of this Order for deposit into the Virginia Environmental Emergency Response Fund (VEERF). If the Department has to refer collection of moneys due under this Order to the Department of Law, Patriot shall be liable for attorneys' fees of 30% of the amount outstanding.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend this Order with the consent of Patriot for good cause shown by Patriot, or on its own motion pursuant to the Administrative Process Act, Va. Code § 2.2-4000 *et seq.*, after notice and opportunity to be heard.
2. This Order addresses and resolves only those violations specifically identified in Section C of this Order. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized

by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility; or (3) taking subsequent action to enforce the Order.

3. For purposes of this Order and subsequent actions with respect to this Order only, Patriot admits the jurisdictional allegations, findings of fact, and conclusions of law contained herein.
4. Patriot consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Patriot declares it has received fair and due process under the Administrative Process Act and the Virginia Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to modify, rewrite, amend, or enforce this Order.
6. Failure by Patriot to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Patriot shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other unforeseeable circumstances beyond its control and not due to a lack of good faith or diligence on its part. Patriot shall demonstrate that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Patriot shall notify the DEQ Regional Director verbally within 24 hours and in writing within three business days when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director verbally within 24 hours and in writing within three business days, of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto and any successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Patriot. Nevertheless, Patriot agrees to be bound by any compliance date which precedes the effective date of this Order.
11. This Order shall continue in effect until:
 - a. the Director or his designee terminates the Order after Patriot has completed all of the requirements of the Order;
 - b. Patriot petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - c. the Director or Board terminates the Order in his or its sole discretion upon 30 days' written notice to Patriot.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Patriot from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. Any plans, reports, schedules or specifications attached hereto or submitted by Patriot and approved by the Department pursuant to this Order are incorporated into this Order. Any non-compliance with such approved documents shall be considered a violation of this Order.
13. The undersigned representative of Patriot certifies that he or she is a responsible official authorized to enter into the terms and conditions of this Order and to execute and legally bind Patriot to this document. Any documents to be submitted pursuant to this Order shall also be submitted by a responsible official of Patriot.
14. This Order constitutes the entire agreement and understanding of the parties concerning settlement of the violations identified in Section C of this Order, and there are no representations, warranties, covenants, terms or conditions agreed upon between the parties other than those expressed in this Order.
15. By its signature below, Patriot voluntarily agrees to the issuance of this Order.

Patriot Ready Mixed Concrete, L.L.C. voluntarily agrees to the issuance of this Order.

Date: May 9, 2018 By: [Signature], MANAGING MEMBER
(Person) (Title)
Patriot Ready Mixed Concrete, L.L.C.

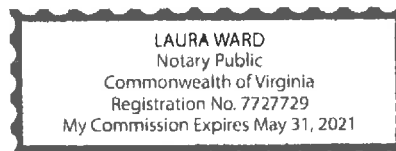
Commonwealth of Virginia
City/County of Fairfax

The foregoing document was signed and acknowledged before me this 9th day of May, 2018, by Roy Eller who is Managing Member of Patriot Ready Mixed Concrete, L.L.C., on behalf of Patriot Ready Mixed Concrete, L.L.C.

[Signature]
Notary Public
7727729
Registration No.

My commission expires: May 31, 2021

Notary seal:



And it is so ORDERED this 15th day of May, 2018.



Amy T. Owens, Regional Director
Department of Environmental Quality

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